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parent, though weak and in failing health, is not of unsound mind, and, being aware of the consequence of his act and that it cannot be recalled, deliberately makes the conveyance.

THE VIRGINIA COAL & IRON COMPANY v. KELLEY.—Decided at Wytheville, July 2, 1896.—*Riely, J.* Absent, *Harrison, J.*:

1. CO-TENANTS—*Different owners of soil and minerals—Adverse possession—Purchase of outstanding title.* Although a co-tenant cannot take advantage of any defect in the common title by purchasing an outstanding title or incumbrance, and asserting it against his companions in interest, yet the owner of the surface of the land and the owner of the minerals under it, where each holds a separate and distinct title, are neither joint tenants, nor tenants in common. They are not the owners of undivided interests in the same subject, but are owners of distinct subjects of entirely different natures. The title to the freehold of the one, either in the surface or the minerals, cannot be acquired by adverse possession of the other, and the purchase of the outstanding title by the one does not enure to the benefit of the other. In the case at bar the evidence does not support the claim of a resulting trust or a constructive trust in favor of the appellants.

2. CHANCERY JURISDICTION—*Cloud on title of one in possession of land—Void deed conveying minerals.*—The holder of the legal title to land, who is in possession, may come into a court of equity to have a cloud removed from his title. He has no adequate remedy at law. A deed which purports to convey the minerals in land, though void on its face, constitutes a cloud on the title which a court of equity, in a proper case, will remove.

COLDIRON AND OTHERS v. ASHEVILLE SHOE COMPANY AND OTHERS.

Decided at Wytheville, July 9, 1896.—*Riely, J.* Absent, *Harrison, J.*:

1. EVIDENCE—*Statements of assignor in absence of assignee.* Statements of the obligee of a title bond made after assignment thereof, in the absence of the assignee and prejudicial to his interest, are not competent evidence against such assignee, and cannot effect his rights.

2. CHANCERY PLEADING—*Answer responsive to bill is evidence for the defendant.* The answer of a defendant which is responsive to a bill which calls upon the defendant for an answer, and which is also responsive to special interrogatories propounded in the bill, is to be taken as true, unless overcome by the testimony of two witnesses, or one witness and corroborating circumstances, or by documentary evidence alone. The whole of such answer is to be taken as evidence for the defendant. It cannot be separated and a part accepted and the residue rejected.

3. JUDGMENTS—*Lien only on debtor's interest in land—Not a lien on an equitable estate held in trust for others.* Where statutory enactments do not interfere, a creditor can never get by his judgment more than his debtor really owns, and to this he will be confined by a court of equity. In the case at bar the judgment debtor had no interest in the lands sought to be subjected to which the lien of a judgment against him could attach. His interest was a mere equitable title held in trust for others.